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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/715,161
Filing Date: November 17, 2003
Appellant(s): SCHYBERGSON ET AL.

Jonathan A. Thomas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on November 11, 2010 appealing from the Office action mailed June 7, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The examiner agrees with the appellant on the status of the claims.

(4) Status of Amendments After-Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Review on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

4,589,140	BISHOP	5-1986
5,732,184	CHAO	3-1998
2001/0056434	KAPLAN	12-2001
6,996,782	PARKER	2-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-8, 13-17, 28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US pat no 6,996,782) in view of Kaplan (US pub no 2001/0056434).

With regards to **claim 1**, Parker discloses an application for providing access to media files on a digital device, the application comprising a computer readable storage medium having computer-readable program instructions embodied in the medium, the computer-readable program instructions (see figure 1, 14) comprising:

first instructions for generating a media view that segments time into time units (see figure 2); and

second instructions for generating a topographic view that graphically represents media file quantity in relation to the time units presented in the media view, wherein the second instructions are configured to generate the topographic view so as to individually represent media file quantity for each of a plurality of images, and wherein the second instructions are further configured to generate the topographic view so as to concurrently display the individual representations of the media file quantity for each of the plurality of images in relation to the same time units (see figure 6B and figure 6F, displays plurality of images currently and the histogram displays the quantity of files created on the corresponding time slot).

Parker shows that the 'digital object' in its invention includes digitalized home video, digitally scanned graphics, digitalized music and other audio recording (see column 1, lines 30-40), but is silent in providing thumbnail representation of different type of digital objects, such as an audio file, image file or a video file in a display window.

Kaplan discloses such feature, to provide thumbnail representation of different type of digital objects, such as an audio file, image file or a video file (see figure 8, element 60 is an audio file and 62 is an image file, audio file is represented using a speaker object and image file is represented by using an object image) in a display window.

The combination of Parker and Kaplan as a whole discloses second instructions for generating a topographic view that graphically represents media file quantity in relation to the time units presented in the media view, wherein the second instructions are configured to generate the topographic view so as to individually represent media file quantity for each of a plurality of different media file types, and wherein the second instructions are further configured to generate the topographic view so as to concurrently display the individual representations of the media file quantity for each of the plurality of different media file types in relation to the same time units (*Kaplan's*, figure 8, audio file representation and image file representation incorporated into *Parker's* displaying system in figure 6F will arrive at the application's invention).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include to provide indication of different type of digital objects to allow user or operator to easily differential between the types of media files in order to reduce amount of time searching or retrieving multimedia files.

With regards to **claim 2**, Parker discloses wherein the second instructions for generating a topographic view that graphically represents media file quantity in relation to the time units presented in the media view further defines media file quantity as the number of media files (see figure 3A, 100).

With regards to **claim 3**, Parker reads on wherein the second instructions for generating a topographic view that graphically represents media file quantity in relation to the time units presented in the media view further defines media file quantity as the storage volume of media files (see figure 3A, 100, the histogram shows the volume media count for corresponding month).

With regards to **claim 4**, the combination of Parker and Kaplan as a whole discloses generating a topographic view that graphically represents media file quantity in relation to the time units presented in the media view and graphically distinguishes between media files of a chosen media file characteristic in addition to the media file type (see Parker figure 6B, where is shows the plurality of time units and see Kaplan figure 4 showing currently displaying the different types of media files).

With regards to **claim 6**, the combination of Parker and Kaplan as a whole discloses generating a topographic view that graphically distinguishes between media files of a chosen media file characteristic and the chosen media characteristic is defined in media file metadata (see Parker figure 6B, where is shows the plurality of time units and see Kaplan figure 4 showing currently displaying the different types of media files)).

With regards to **claim 7**, the combination of Parker and Kaplan as a whole discloses generating a topographic view that graphically distinguishes between media files of a chosen media file characteristic further comprises a media file characteristic chosen from the group consisting of media file size, event related to the media file, media file author, media file title and media file keyword (see Parker figure 6B, where is shows the plurality of time units, and column 3, lines 9-14).

With regards to **claim 8**, Parker discloses the time units are months and years (see figure 2).

With regards to **claim 13**, Parker reads on generating a topographic view further includes instruction for generating a focus mechanism that provides for the media files to be previewed (see figure 6B).

With regards to **claim 14**, Parker reads on generating lenses for identifying areas within the topographic view that include results of a search of the media files, wherein the second instructions are configured to generate the lenses to have distinct characteristic in order to

represent different searches or different amount of media files that satisfy the search (see figure 6B, when a section of the timeline is selected, system will search for images selected in the timeline and displays them, in addition to displaying images, the histogram also shows the *amount of images originated from the selected date, figure 4, the 'search' is when the user searches for the desired time unit*).

With regards to **claim 15**, Parker reads on generating highlighted areas within the topographic view that identifies areas of user interest (see figure 6B, the mouse cursor points at late 1999 to open files).

With regards to **claims 16, 17 and 31**, see the rationale for claim 1. In addition, Parker also discloses a display device for displaying time bar and topographic view (see figure 6B).

With regards to **claim 28**, Parker reads on to generate the topographic view so as to graphically represent media file quantity as the storage volume of media files in relation to the time units presented in the media view (see figure 6B, each time unit in the histogram indicates storage volume of media files).

With regards to **claims 30 and 34**, see the rationale for claim 14.

With regards to **claim 32**, see the rationale for claim 28.

With regards to claim 33, see the rationale for claim 11.

3. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US pat no 6,996,782) in view of Kaplan (US pub no 2001/0056434) as applied to claim 1 further in view of Chao (US pat no 5,732,184).

With regards to **claim 10**, the combination of Parker and Kaplan as a whole discloses all the limitations of claim 7, but does not disclose dividing the graphical representations into more than one portion of the topographic view based on a chosen distinguishing media file characteristic.

Chao discloses the second instructions for generating a topographic view that includes generating a baseline representation further includes generating a baseline representation that provides for dividing the graphical representations into more than one portion of the topographic view based on a chosen distinguishing media file characteristic (see figure 3, video and audio are divided into different rows).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include the teachings of Chao into Parker and Kaplan, which is dividing the graphical representations into more than one portion of the topographic view, to show highlight the content of the file so user can easily determine whether if that is a desired file.

With regards to **claim 9**, see the rationale for claim 10.

4. Claims 11, 12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US pat no 6,996,782) in view of Kaplan (US pub no 2001/0056434) as applied to claim 1 further in view of Bishop (US pat no 4,589,140).

With regards to **claim 11**, the combination of Parker and Kaplan as a whole discloses all the limitations of claim 7, but does is silent in generating a zoom mechanism that provides for a more detailed graphical representation of media files than provided by the topographic view including a graphical representation of the media files in accordance with more finely divided time units than in the topographic view, wherein the second instructions are configured to concurrently display both at least a portion of the topographic view and the more detailed graphical representation of the media files.

The combination of Parker, Kaplan and Bishop as a whole discloses a zoom mechanism that provides for a more detailed graphical representation of media files and concurrently display both at least a portion of the topographic view and the more detailed graphical representation of the media files (see figure 7 of Bishop, a zoom function is used to capture the image of defect areas).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include the teachings of Bishop into Parker and Kaplan, which is dividing the graphical representations into more than one portion of the topographic view, to further examine the graphic thumbnail, so the correct thumbnail is selected.

With regards to **claim 12**, Parker discloses the second instructions for generating a zoom mechanism further provides for the zoom mechanism that provides for a detailed graphical representation of media files and the ability to access the media files via the detailed graphical representation (the plot in figure 6E is more detailed than the plot in figure 6D).

With regards to **claim 29**, see the rationale for claim 11.

(10) Response to Argument

I. On page 11 of the appeal brief the appellant argued, both Parker and Kaplan fail to provide a reason to modify or to combine, specifically stating: "However, the Office Action does not provide a reason for performing the modification."

The examiner respectfully disagrees. Parker discusses 'digital objects' in its invention include digitalized home video, digitally scanned graphics, digitalized music and other audio recording (see column 1, lines 30-40) and further suggests said digital objects can be represented using thumbnail images (column 2, lines 1-6). However, Parker does not provide figures or drawings to differential between, for example, a digitalized scanned picture images and a digitalized music of the thumbnail images.

Kaplan however provides such feature. Kaplan discloses providing thumbnail representation of different type of digital objects, such as an audio file, image file or a video file (see figure 8, element 60 is an audio file and 62 is an image file, audio file is represented using a

speaker object and image file is represented by using an object image) in a display window. See figure below:



Combine the thumbnail representation of Kaplan into the timeline histogram, generated by the following: developing a histogram timeline which identifies a number of visual digital objects organized according to predetermined time periods and providing thumbnail representations thereof; selecting a portion of the histogram timeline for viewing such thumbnail representations of visual digital objects corresponding to such selected portion; and determining if one or more of the viewed such thumbnail representations is of interest and then viewing the corresponding digital visual object(s),

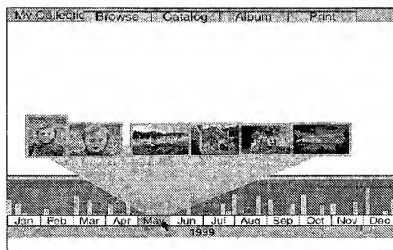
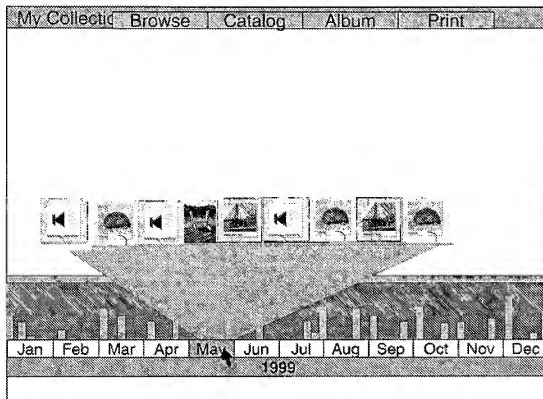


Fig. 6F

will arrive at the following:



As a result the combination of Parker and Kaplan as a whole discloses

generating a topographic view that graphically represents media file quantity in relation to the time units presented in the media view, wherein the second instructions are configured to generate the topographic view so as to individually represent media file quantity for each of a plurality of different media file types, and wherein the second instructions are further configured to generate the topographic view so as to concurrently display the individual representations of the media file quantity for each of the plurality of different media file types in relation to the same time units (*Kaplan's, figure 8, audio file representation and image file representation*

incorporated into Parker's displaying system in figure 6F will arrive at the application's invention).

II. On page 12 the appellant further argues: "Furthermore, one skilled in the art would not have been motivated to combine Parker and Kaplan, except as a result of the impermissible application of hindsight. In fact, the Court of Appeals for the Federal Circuit has stated that "[c]ombining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure of a blueprint for piecing together the prior art to defeat patentability—essence of hindsight."

The examiner respectfully disagrees. As discussed above, the examiner pointed out Parker suggests said digital objects can be represented using thumbnail images (see column 2, lines 1-10), wherein said 'digital object' in its invention includes digitalized home video, digitally scanned graphics, digitalized music and other audio recording (see column 1, lines 30-40).

Taking the combination of Parker and Kaplan **as a whole**, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to include to provide indication of different type of digital objects to allow user or operator to easily differential between the types of media files in order to reduce time searching for desired files.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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